

POST 2006 INITIATIVE
Final Report

I. Group Name – Energy Assistance Work Group (EAWG)

II. Group Administration

- A. Participants list – 66 individuals, representing 28 different entities (including utilities, consumer groups, governmental agencies and energy suppliers) participated in at least one meeting, with most meetings attracting about 25 participants. See Appendix 1 for attendance by meeting
- B. List of meetings – 11 meetings of the group were held from May 14 to August 27. The headings on Appendix 1 list the meeting dates and Progress Reports were written for each meeting.

III. Executive Summary

The Energy Assistance Work Group was one of five Work Groups addressing Post 2006 transition period issues under the ICC's Post 2006 transition initiative. Unlike the other four Work Groups, most of what was considered by the EAWG is not directly impacted by the completion of the transition to a restructured electric industry in Illinois, except for the fact that supplemental funding charges for energy assistance and environmental matters were implemented by the General Assembly at the same time the Customer Choice legislation was passed and that a legislatively imposed rate freeze will expire at the end of 2006. We specifically considered whether the selection of any of the scenarios considered by the Procurement Work Group would impact energy assistance programs and concluded it would not. We also considered whether anything would change if an alternative supplier (ARES) provided power and energy to a customer who is an energy assistance recipient and concluded that there are only some issues involving distribution of funds mechanics to address which should be easily handled within the existing program framework.

The remainder of our work considered the broader issues of how to provide and fund energy assistance programs for low-income customers who cannot afford to pay just and reasonable rates. The issues were not limited to electric issues as much of the needs and funding of the current programs are focused on winter heating, which is predominately related to natural gas consumption.

The EAWG was able to reach consensus on the following points:

- LIHEAP in Illinois has been a valuable program with a significant positive impact on energy assistance recipients. Illinois is a leader in terms of available funding for the program.
- The current definition of eligible program participants ("at or below 150% of federal poverty level") should remain.
- The current limit on eligibility should remain in effect and the practice of allowing households with elderly and disabled members and households without energy service to apply before the general application period should continue. The IDPA, in consultation with the Policy Advisory Council, should consider an expansion of the priority application period to include households with incomes less than 50% of

POST 2006 INITIATIVE Final Report

the federal poverty level and/or low income families with children under the age of 16. The IDPA should consider the practicality of using household income in deeming eligibility for the priority application period, as well as the tendency and possibility that expanding eligibility for the priority period may make the priority period less advantageous for the elderly and disabled.

- Further discussions of a Percentage of Income Payment Plan (PIPP) program design and other alternatives should be explored in various policy making venues.

- Energy efficiency education programs could have a positive impact on improving LIHEAP and should be further evaluated.

- The cycle of utility disconnections in the Spring and Summer followed by reconnections in the Fall is not in the best interest of utilities or their customers.

- The energy assistance and renewable energy/clean coal technology charge and the energy efficiency contribution should at least be maintained at current levels.

- There should be no short-term effect on state energy assistance programs caused by the method(s) of procuring power used or power supplied directly to customers by alternative retail electric suppliers (ARES) in the Post 2006 energy environment.

There was a split opinion on whether the participation of municipal and cooperative utility systems in LIHEAP should remain voluntary and there were numerous minority positions advanced on several of the topics. All are detailed in the text of this report.

IV. Workshop Process

A. Description of the Group's approach

The Energy Assistance Working Group approached its issues in a somewhat different manner than other working groups. The working group spent several meetings laying the factual foundation for better understanding the key issues involved in the final list questions that were assigned to them for discussion. This foundation consisted of several presentations on the basics of energy assistance programs in Illinois and different proposals related to design changes in these programs. The group took this route because of the need for many of its participants to become more familiar with the general topic before focusing on answers to the final list questions. After the foundational work was completed, the working group identified and discussed several individual issues related to the final list questions. Several members of the group agreed to draft proposed consensus language related to those issues so that the entire group could review and consider including the language in the final report. At the conclusion of this review process a draft final report was prepared by the co-conveners, circulated to the working group members and finalized through email review.

There are two different positions on various topics that are described throughout the remainder of this report. They are defined as follows:

- ❖ **CONSENSUS STATEMENT** – this designation is used for those issues where most, if not all, of the participants agreed with the statement. While not always requiring unanimity, a consensus item has at most two or three dissenters, who would have the option of submitting a minority position statement for inclusion.

POST 2006 INITIATIVE
Final Report

- ❖ Minority Position – in situations where a party did not agree with the consensus statement, or perhaps wanted it to be more extensive than what was approved by the group, they were allowed to submit a minority position statement to be included in the final report. Parties were not allowed to modify the language of the submitting party, unless that party agreed to accept a suggested change - which happened in several instances after extensive discussion in the workshop. Readers of minority positions must understand that they are the opinions of the submitting and supporting parties and recognize that others participating in the workgroup may disagree strongly with the minority statement - but the rules of engagement did not allow them to change it. Parties were allowed to submit opposing minority statements if they were so inclined.
- ❖ “Supported by” – in both the Statements of Position and Minority Position submissions, parties other than the one submitting the language were given the option of having their support attributed to them or remaining unidentified. Where three or four parties are identified does not necessarily indicate that more parties were not supportive of that position within the workgroup setting.

B. Subgroups and Conveners (if applicable) - None

V. Report of Results

- A. Broad Principles/Conclusions reached (if separate from answers to assigned Issues) - None
- B. Answers to assigned Issues including, where consensus could not be reached, the results of successful efforts to narrow issues and arrive at broadly accepted positions, and/or reports of remaining positions with significant support (*e.g.*, majority and minority reports)

Issue 90 – “How should state energy assistance programs be provided for low-income customers who cannot afford to pay just and reasonable rates?”

- **Description and History of the LIHEAP Program** – The Illinois General Assembly has enacted 305 ILCS 20/, the Energy Assistance Act, which makes it the policy of the state that all low-income households have access to essential heat and electric services regardless of economic circumstances, that a comprehensive low income energy assistance policy and program should be established and that the ability of public utilities and other entities to receive just compensation for providing services should not be jeopardized by this policy. Initially, the Department of Commerce and Community Affairs, later renamed Department of Commerce & Economic Opportunity was the state agency authorized by the act to implement the program by rule. However this authority was transferred to the Department of Public Aid (IDPA) effective July 1, 2004 by Executive Order 2004-003. Additionally, procedural rules have been codified in 47 Ill Admin Code, Chapter 1, Part 100 The program is known as Low Income Home Energy Assistance Program (LIHEAP). The Act also creates a Policy Advisory Council (PAC), with specific representation requirements (including agency, utilities, local administering

POST 2006 INITIATIVE
Final Report

agencies, customer groups & City of Chicago), to evaluate any changes to the program, monitor the administration of the Act and assist and advise the Department on the program. Section 13 of the Act creates the Supplemental Low-Income Energy Assistance Fund and a companion Energy Assistance Charge to be assessed by electricity and natural gas delivery companies on their customer accounts. This section is automatically repealed effective December 31, 2007 unless renewed by action of the General Assembly. It is the opinion of those participating in the EAWG that the LIHEAP program has been a very valuable program which has had significant positive impact on energy assistance recipients. The combination of federal and state funding of the program is in excess of \$147 million annually, and the money raised in Illinois via the energy assistance account charge makes us one of the leaders of all states in available funding.

- **Eligible participants** –

- CONSENSUS STATEMENT - The current definition of “at or below 150% of federal poverty level” should remain.

- **LIHEAP Eligibility and Priority Period for Applications** – The Energy Assistance Act (305 ILCS 20) directs the Department to “not set a limit [for LIHEAP eligibility] higher than 150% of the federal nonfarm poverty level as established by the federal Office of Management and Budget.” [Section 6(a)] Also, according to the Act, “the Department shall assure that a minimum of 1/3 of funds available for benefits to eligible households with the lowest incomes and that elderly and disabled households are offered a priority application period.” [Section 6(b)]

- CONSENSUS STATEMENT - The current limit on eligibility should remain in effect and the practice of allowing households with elderly and disabled members and households without energy service to apply before the general application period should continue. The IDPA, in consultation with the Policy Advisory Council, should consider an expansion of the priority application period to include households with incomes less than 50% of the federal poverty level and/or low income families with children under the age of 16. The IDPA should consider the practicality of using household income in deeming eligibility for the priority application period, as well as the tendency and possibility that expanding eligibility for the priority period may make the priority period less advantageous for the elderly and disabled.

- **Percentage of Income Payment Plan (PIPP)** –

- CONSENSUS STATEMENT - Further discussions of a PIPP program design and other alternatives should be explored in various policy making venues.

- ❖ Minority Position(supported by Lt. Governor, Illinois Community Action Association, Low Income Utility Advocacy Project & Community Energy Cooperative). In Illinois, it is established by the General Assembly that the health, welfare, and prosperity of the people of Illinois require that all low-income

POST 2006 INITIATIVE
Final Report

households have access to the essential services of heat and electric service regardless of economic circumstances.

In this regard, it is recognized:

- That Illinois families (on average) pay 4 to 6 percent of household income on energy, low-income households (before LIHEAP assistance) spend 21 to 31 percent of their income;
- Increased costs (especially price spikes in the natural gas) have made energy less affordable for low-income families;
- There is a need for programmatic alternatives that make energy more affordable for low-income households;
- A percentage of income payment plan (PIPP) could potentially make energy more affordable for a significant number of current LIHEAP customers;
- That a PIPP (if designed correctly) could foster personal responsibility, energy conservation, and help break the vicious cycle of disconnect - reconnect; and
- After having had a thorough discussion concerning the potential benefits of a PIPP plan;

Further exploration should focus on identifying and resolving issues of concern including:

- What percentage of a low-income family's income is considered affordable energy;
- Structural and programmatic changes needed to implement a PIPP;
- The amount of resources needed to implement a PIPP, and if additional resources are needed where they will come from;
- Cost containment designs to limit resource impact on the program and energy suppliers.

❖ Minority Position (supported by Low Income Utility Advocacy Project & Community Energy Cooperative). The Illinois Commerce Commission has the authority to adopt a PIPP or percentage of income payment program under Section 9-244 at the initiative of a public gas or electric utility. The Illinois Commerce Commission also has the authority to adopt a PIPP on its own motion or upon complaint. This authority derives from the following sections of the Public Utilities Act: 8-101; 8-201; 8-501 and 9-250 & ICC Docket 84-0262. The authority of the Commission to adopt a PIPP on its own motion or upon complaint is less certain; for that reason the legislature should be asked to enact legislation making clear the Commission's authority but not to require a particular result.

❖ Minority Position (supported by Low Income Utility Advocacy Project & Community Energy Cooperative). The PIPP proposed by the Lieutenant Governor's Office, the Community Action Agencies and the Community Energy Cooperative (with research help from Department of Natural Resources (DNR)) is well developed and well thought out. It is necessary for the health and well-being of many of Illinois' poorest families and should be adopted by the Illinois Commerce Commission or the legislature at the earliest possible time. There are great benefits to both utilities and low income households and those benefits should not be deferred. The Department of Energy & Natural Resources (DENR) evaluation of Illinois Residential Affordable Payment Plan (IRAPP) showed (1)

POST 2006 INITIATIVE
Final Report

drastic reductions of disconnections; (2) that shortfall, bad debt and collection cost were less than bad debt and collection cost without IRAPP; (3) that participants paid a greater portion of the utility bills than non-participants; and (4) that there was no increase in usage by participants in any statistically significant way.

- **Year Round Program** –

- ❖ **Minority Position (supported by Low Income Utility Advocacy Project).**

The LIHEAP program in Illinois should be a year round program. One of the goals of LIHEAP is to protect the health and safety of low income households. In recent years, almost all loss of life caused by lack of essential service has been due to lack of cooling.

- **Energy Efficiency Education program** – Energy efficiency holds the promise of reducing the bills of LIHEAP recipients and is one tool that can help low income households maximize the benefits of their LIHEAP grant.

- CONSENSUS STATEMENT - The IDPA is currently undertaking a pilot program on financial education and energy conservation. This program could have a positive impact on improving LIHEAP and if the evaluation of this and other pilot programs is positive, they should be further developed and expanded.

- **Disconnect/Reconnect cycle change** –

- CONSENSUS STATEMENT - The cycle of utility disconnections in the Spring and Summer followed by reconnections in the Fall is not in the best interest of utilities or their customers.

- ❖ **Minority Position (supported by Low Income Utility Advocacy Project & Community Energy Cooperative)** History has demonstrated that the current disconnect/reconnection rules are inadequate for a number of LIHEAP recipients. Over recent years, various state officials have facilitated voluntary reconnection programs for LIHEAP recipients that are more favorable than what is required. Those programs are necessary to protect the health and safety of many residential customers. Those programs have often been implemented late in the fall, creating uncertainty for both LIHEAP participants and utilities. The legislature and/or Illinois Commerce Commission should codify the following program to address this situation - "low income customers will have their heat or heat related utility service restored during the period September 1 through December 31 by paying 20% of their arrearage or \$250, whichever is less; customers will then be placed on a payment plan to pay the remainder of their arrearage."

- **Municipal Utility/Cooperative participation in LIHEAP** – No consensus was reached on this issue with split positions being held. Neither position had enough support to be classified as a Consensus Statement, so both are listed as Minority Positions, although

POST 2006 INITIATIVE
Final Report

both had the support of almost equal numbers of parties (not all of which chose to be listed as such in this report).

- ❖ Minority Position (supported by IMEA, AIEC & Com Ed) At the time of passage of the Customer Choice and Rate Relief Law of 1997, supplemental funds were established for low income energy assistance and various renewable energy projects. Recognizing the different business and tax models involved, the collection of the meter charge for those funds was made optional for municipal electric and gas and cooperative electric systems. It is the position of the above organizations that there be no change in the requirements for participation by municipal electric and gas and cooperative electric systems in the supplemental funds created by the 1997 law.
- ❖ Minority Position (supported by Illinois Community Action Association & Low Income Utility Advocacy Project). It is recognized by some of the participants in the EAWG that non-participation of municipal energy suppliers and rural energy cooperatives in the Illinois meter charge program causes unnecessary hardship on low-income customers of those suppliers. Therefore, the above organizations encourage programmatic and policy changes that would facilitate voluntary and/or required participation of these suppliers in the Illinois meter charge program
- **Administrative improvements to LIHEAP Program** – The Department of Public Aid has recently upgraded the computer system used for LIHEAP program administration to a web-based system designed to allow for more flexible and meaningful management reports, the streamlining of local agency and utility communications, and the reduction of the amount of time needed for clients to be reconnected or to receive benefits. In addition, other initiatives of the Department include a pilot program to reduce disconnections, new procurement training for local agencies and the administration of the Good Samaritan Fund. These and other administrative improvements undertaken by the Department will have a positive short-term impact on the current LIHEAP program and could allow for more flexibility to facilitate the consideration of alternative future program designs
- **Need for Admin Code Part 280 modifications or legislative action** –
 - ❖ Minority Position (supported by Low Income Utility Advocacy Project). On March 13, 1985, the Illinois Commerce Commission found in Docket 84-0262 that the Commission's "present rules regulating deposits, past due bills, deferred payment arrangements, budget payment plans, disconnection and reconnection of service do not meet the needs of low-income customers." Order at page 26. Since then, nothing has been changed to 83 IL Admin Code Part 280 to better protect low-income persons, except minor improvements for some customers through the addition of Section 280.136. There is demonstrated need to improve the Commission's rules regulating deposits, past due bills, deferred payment arrangements, budget payment plans, disconnection and reconnection of service (83 Ill. Admin.Code. Part 280) in regard to low income customers. The Commission should open a proceeding to examine this issue and improve those rules. The legislature should also consider changes to the Public Utilities to make it better protect low income utility customers.

POST 2006 INITIATIVE
Final Report

The utilities have raised the concern that improving the rules to better serve the needs of low income customers would benefit customers who have the ability to pay their bills in full. Utilities believe that efforts to provide additional protection to LIHEAP eligible recipients should be matched by efforts to limit, in a reasonable manner, provisions intended to protect low income customers to such low income customers, not to those customers who could pay but choose not to pay. This problem has often been referred to as the problem of protecting the "Can't Pays" while not providing unintended and unnecessary benefits to "Won't Pays."

In the 1995, the Illinois Commerce Commission began a proceeding (Docket 95-0550) to consider changes to 83 Ill.Admin.Code Part 280. Nearly all (if not all) utilities in the state, Commission staff, low income organizations and general rate payer organizations participated. A number of workshops were held before the proceeding was dismissed. In those workshops, nearly all (if not all) parties supported a bifurcated rule - by "bifurcated" the parties meant a rule where certain provisions applied only to low income customers.

The Commission has legal authority to adopt a bifurcated 83 Ill.Admin.Code Part 280. Treating customers differently based on ability to pay, does not run afoul of the Public Utilities Act prohibition against unreasonable discrimination. Any difference in payment plans, deposits or other provisions would be based on "other relevant factor" as permitted by the Act. Peoples Gas Light and Coke Co. v Illinois Commerce Commission, 165 Ill. App. 3d 235, 20 N.E.2d 46, 52, 117 Ill. Dec. 46 (1st Dist 1987).

It would avoid needless controversy over Commission authority if the legislature modified Sections 5/8-206 and 5/8-207 (220 ILCS Sections 5/8-206 and 5/8-207) to include the following language: "The rules promulgated by the Commission shall allow the consideration of the financial ability/inability of a residential customer to pay the energy bills. The inability to pay shall be determined by the eligibility of the residential customer to receive disbursements from LIHEAP."

Issue 91 – "Is the current surcharge level adequate for energy assistance?"

- Besides the Energy Assistance Charge referenced in the above issue, the EAWG was also asked by ICC and Work Group Conveners to consider the funding of the companion Renewable Energy/Clean Coal Technology Charge. It was clarified that while these are often referred to as "meter charges", they are more accurately described as "account charges", applicable to all delivery customers of the delivery company.

- **Energy Assistance Charge** –

- **CONSENSUS STATEMENT** - This charge should be at least maintained at current levels
 - ❖ Minority Position (supported by Low Income Utility Advocacy Project) In terms of the energy assistance fund, the intent of the Electric Restructuring Act of 1997 was to raise equal amounts from (1) the residential class and (2) all other customers classes. All indications are that more money is currently being

POST 2006 INITIATIVE
Final Report

provided by the residential class. However, this has not been quantified. IL Department of Economic Opportunity is requesting data from IL Department of Revenue to quantify and confirm whether a disparity exists. If this disparity is found to exist, the legislature should be asked to increase the account/meter charge for non-residential customers to raise the same amount as currently contributed by the residential class.

❖ Minority Position (supported by Low Income Utility Advocacy Project) It is not in dispute that energy is not affordable for many low income households. The ultimate goal of making energy affordable for this population is to reduce their bills to the percentage of household income paid by the majority of residential customers. This would be in the range of 4-6% of income. There are currently insufficient resources to accomplish this; however, we should begin immediately working to meet this goal and begin this transition now. Bills can be reduced by weatherization and a percentage of income payment program ("PIPP"). The shortfall between what the low income household is billed and its required percentage of income monthly payment plan can be funded in the following ways: (1) federal energy assistance money (2) state energy assistance money (3) aggregation (4) utility savings in their collection and uncollectible costs. Hedging can serve to reduce fluctuations between years due to price or weather. In the short term, the following actions should be taken. The state account/meter charge should be increased by at least 20%; a year round PIP should be adopted with the household paying 10% of income; utilities should track the benefits of the PIP and the money saved should be credited to program participants as a whole.

- **Renewable Energy/Coal Technology Charge** – The Renewable Energy, Energy Efficiency and Coal Resources Development Law of 1997 created funding mechanisms for the Renewable Energy Resources Trust Fund, the Coal Technology Development Assistance Fund, and the Energy Efficiency Trust Fund. The Renewable Energy Resources Trust Fund and the Coal Technology Development Assistance Fund are funded by customer charges.¹ The Energy Efficiency Trust Fund is funded by electric utilities and alternative retail electric suppliers.² Under current law, all three trust funds are scheduled to sunset in December 2007.

¹ The Renewable Energy, Energy Efficiency and Coal Resources Development Law of 1997 requires all public utilities, electric cooperatives, and municipal utility engaged in the delivery of electricity or the distribution of natural gas within Illinois to collect the following fees from customers: (a) 5 cents per month for all residential electric and gas customers; (b) 50 cents per month for all nonresidential electric customers with less than 10 megawatts of peak demand; (c) 50 cents per month for all nonresidential gas customers with less than 4 million therms of annual gas consumption; (d) \$37.50 per month for nonresidential electric customers with 10 megawatts or greater of peak demand; (e) \$37.50 per month for nonresidential electric customers with 4 million therms or more of annual gas consumption. 20 ILCS 687/6-5.

² The Energy Efficiency Trust Fund is funded by a \$3,000,000 annual charge that is apportioned on a pro-rata basis among electric utilities and alternative retail electric suppliers, based upon the number of kilowatt-hours sold in Illinois. 20 ILCS 687/6-6

POST 2006 INITIATIVE
Final Report

- **CONSENSUS STATEMENT** - The funding for the Renewable Energy Resources Trust Fund, the Coal Technology Development Assistance Fund and the Energy Efficiency Trust Fund should be at least maintained at current levels.

❖ Minority Position (supported by Spire Solar Chicago) - The Renewable Energy/Coal Technology Charge should be increased to a level that can address the growing utility and non-utility markets for these new applications, and that a portion of this increase be dedicated towards low income/affordable and senior housing and related projects. This provides an opportunity for organizations that serve these vulnerable populations to realize long-term utility reductions, as well as employment opportunities. Solar, wind, biomass, hydro and cleaner coal technologies will reduce pollution and the economic cost of imported energy and improve energy security. Both electric and natural gas service providers can use these incentives as well as consumers. The support for implementing renewable energy technologies is also critical for Illinois' economic future. Industries and businesses are locating their manufacturing and other operations based on state incentives, and Illinois needs to be competitive in this regard versus states like California and New Jersey, as well as competing to attract Japanese and German businesses. In the last ILDCEO solicitation five times as much funding was requested as was available, a pattern which is likely to continue. Prices of these technologies will decline in the long run, but require incentives in the near future to achieve this economy of scale.

Issue 92 – “Are there other regulatory and/or legislative mechanisms that should be considered?”

- The answers to this issue were made part of the answers to Issue 90.

Issue 93 – This question dealing with economic development rates was transferred to the Rates Work Group and will be answered in their report.

A. Answers to additional issues or questions

“What, if any, will be the effect on state energy assistance programs of the method(s) of procuring power used or power supplied directly to customers by ARES in the Post 2006 energy environment?”

- **CONSENSUS STATEMENT** - Procurement methods that might be used in a competitive environment should have no impact on energy assistance programs.

B. Miscellaneous Consensus Items or consensus Documents - None

C. Specific recommendations to rule or legislative changes (if any) – None

D. Glossary / working definitions (if any) - None

XI. New or Unanswered Questions - None

POST 2006 INITIATIVE
Final Report

- XII. Other documents / attachments (please indicate the titles of each document)
- A. Agendas for each meeting – The agendas for each of the 11 EAWG meetings are attached as Appendix 2 and are also available on the ICC website (www.icc.state.il.us) under the Post 2006 Initiative section and the Energy Assistance Working Group tab.
 - A. Progress reports / minutes for each meeting – Progress reports of each of the 11 EAWG meetings are attached as Appendix 3 and are also available on the ICC web site.
 - B. Summaries of joint sessions – None applicable to EAWG
 - C. Listing of Presentations and Presenters (if applicable) –
 - i. LIHEAP 101 & Weatherization 101 – Randy Bennet, IL DCEO
 - ii. Improving Energy Assistance in Illinois – Desiree Rogers, Peoples Energy
 - iii. Analysis of Proposed Changes to Energy Assistance Programs – John Colgan, IL Community Action Assn; David Baker/Rick Fiddymment, IL DNR; Anthony Star, Community Energy Cooperative
 - iv. Ohio PIPP – Dave Rinebolt, Ohio Partners for Affordable Energy
 - v. Comparison of Costs of Winter, Summer, and Year-Round Programs – David Baker/Rick Fiddymment – IL DNR
 - vi. LIHEAP Maps of IL by counties (3) – IL DNR
 - D. Presentations – The above presentations are attached as Appendix 4 and are also available on the ICC web site.
 - B. Subgroup reports and materials (if applicable) – Not applicable for EAWG